

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Human Resources

AGENDA DATE: 05/25/10 (Introduction); 06/01/10 (Public Hearing)

CONTACT PERSON/PHONE: Human Resources, Linda Ball Thomas, (915) 541-4509

DISTRICT(S) AFFECTED: City Wide

SUBJECT: An Ordinance Amending Ordinance 8064 (Classification and Compensation Plan) to amend Section 4.6 Legal Holidays, clarifying the holidays observed by the City, and the manner in which holidays observed by the City are administered for accrual and payment to City employees.

APPROVE:

BACKGROUND / DISCUSSION:

Upon approval, the amendment will update Ordinance 8064 (Classification and Compensation Plan)

PRIOR COUNCIL ACTION:

Ordinance 8064 was last amended by City Council on August 25, 2009.

AMOUNT AND SOURCE OF FUNDING:

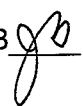
N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

As per Civil Service Commission recommendation on May 13, 2010.

*******REQUIRED AUTHORIZATION*******

LEGAL: (if required) JRB 

FINANCE: (if required) _____

OTHER: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8064 (CLASSIFICATION AND COMPENSATION PLAN) TO AMEND SECTION 4.6 LEGAL HOLIDAYS, CLARIFYING THE HOLIDAYS OBSERVED BY THE CITY, AND THE MANNER IN WHICH HOLIDAYS OBSERVED BY THE CITY ARE ADMINISTERED FOR ACCRUAL AND PAYMENT TO CITY EMPLOYEES

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Ordinance 8064, the Classification and Compensation Plan, shall be amended as follows as recommended by the Civil Service Commission:

4.6 OBSERVED HOLIDAYS

The following days are hereby declared holidays observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire Department or to members of the Police Department, who are covered by collective bargaining agreements with the City. (Amended 10/03/95)

1. First day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Holiday)
3. Last Monday in May (Memorial Day)
4. Fourth day of July (Independence Day)
5. First Monday in September (Labor Day)
6. Fourth Thursday in November (Thanksgiving Day)
7. The Friday following the fourth Thursday in November (Day after Thanksgiving)
(Amended 02/24/09, 06/25/09, 8/25/09)
8. Twenty-fifth Day in December (Christmas Day)
9. Employee's Birthday

When any holiday falls on a Saturday, the preceding business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.

When any holiday falls on a Sunday, the following business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.

Provided however, when the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding business day or the following business day shall be the day on which the holiday shall be observed by the City departments, as determined by the City Manager, who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.

In addition to the above days, the following days are also declared to be holidays observed by the City departments:

1. Any day designated as a holiday by City Council.

A) Police and Fire. Members of the Police and Fire Departments who are required to work on regular holidays shall be given equal time off in lieu of a holiday at the discretion of their department head. If such time off in lieu of a holiday cannot be conveniently taken at any other time, it may be taken with the regular vacation period. (Amended 08/11/87 and 10/03/95)

B) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays, provided that employees in any department regularly operating seven days per week may be required to work on any legal holiday. (Amended 02/24/09)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay employee the holiday, plus the actual numbers of hours worked at straight time. If employee works more than eight hours on a holiday, see Section 5.3 for method of overtime payment. In either case, the department head shall keep a record and report on such overtime work on holidays on the regular payrolls and on such reports as may be prescribed by the Human Resources Director. (Amended 08/28/07 and 02/24/09)

C) Holiday On Scheduled Day Off. Whenever a holiday falls on the employee's scheduled day off, the department head may do either of the following:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay the employee the holiday. (Amended 02/24/09)

D) Holiday Accrual. If an employee is allowed to accrue the holiday, the number of hours credited for 40 hour per week employees will be eight (8) hours, and for 56 hour per week employees will be twelve (12) hours. The maximum accrual for holiday leave time shall not exceed the number of declared legal holidays excluding the birthday holiday. (Amended 10/03/95)

E) Limitation of Payment or Accrual. An employee whose scheduled workday falls on an observed holiday is limited to one payment or accrual for that observed holiday.

F) Employee's Birthday. In case of emergency, when the employee's services are needed on his birthday, the employee may be required by the department head to work on that day or shift but shall be given equal time off on another day or shift. If the employee's birthday falls on a day on which he would be entitled to be off for some other reason, the birthday holiday may be taken on the next regular work day, provided, however, if work schedules cannot be arranged or if emergencies exist, and only in these cases, the department head may schedule the holiday time off on another day or another shift. (Amended 02/24/09)

Any birthday holiday not taken on the employee's birthday but rescheduled in accordance with the above provisions must be scheduled and taken within fourteen calendar days before or fourteen calendar days after the employee's birthday. (Amended 08/28/07, 02/24/09)

RULE 25

Driver Safety Standards

Section 3. Current Employees.

Annual Motor Vehicle Record checks will be made on all current employees with driving duties. Employees may be subject to disciplinary action, including termination, if the Motor Vehicle Record reveals any of the reasons listed in Section 2 above for disqualification of applicants, exists. Current City employees with driving duties must immediately inform their supervisors if convicted, placed on probation, or placed or accepted into a pre-trial diversion program for any moving traffic violation, have an outstanding traffic warrant, or if there is a change in the status of the employee's driver's license. Failure to immediately notify the supervisor may result in disciplinary action including termination. All City employees must attend a defensive driving class within 30 days of being assigned to driving duties and must repeat such training every three years. (Amended 1/5/88, 05/26/92)

PASSED AND APPROVED this _____ day of June, 2010

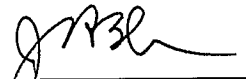
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

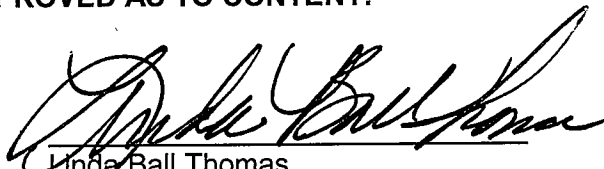
Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:



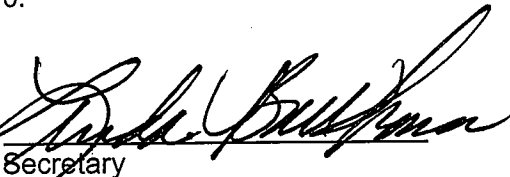
John R. Batoon
Assistant City Attorney

APPROVED AS TO CONTENT:



Linda Ball Thomas
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON APRIL 8, 2010 AND MAY 13, 2010.

By 

Secretary

Section 4. FRINGE BENEFITS

There are other forms of compensation in addition to wages. Other forms include fringe benefits such as insurance, pension contributions, worker's compensation and various kinds of paid leaves such as annual leave, sick leave and civil leave.

4.1 LIFE AND HEALTH INSURANCE

Every regular, full-time employee who is paid by the City, shall be entitled to receive group life, accidental death and dismemberment insurance, health insurance coverage as provided by the City. Employees shall be eligible for enrollment during the City's designated enrollment period. (Amended 08/28/07)

Employees shall have the option of membership in a qualified health maintenance organization (HMO) as an alternative to health insurance coverage. Should an employee opt for HMO membership, the City shall contribute to the HMO an amount equal to the health insurance premium the City would have otherwise been obligated to pay on the employee's health insurance coverage. Any difference between the amount the City contributes and the cost of HMO membership shall be deducted from the employee's paycheck and forwarded to the HMO.

4.2 ANNUAL VACATION WITH PAY

Employees shall be entitled to an annual vacation with pay as set forth in the Civil Service Commission rules.

No vacation credit will be granted, or paid at separation unless an employee has been employed at least one year from the date of hire. An employee, or his beneficiary, in the event of death, shall be paid for accrued vacation leave credit upon separation from the City service at the rate of his bi-weekly salary or hourly rate at the time of separation.

Payment, in the event of death, shall be made providing the employee has been employed at least six calendar months from the date of hire. The maximum amount of vacation credit that shall be paid an employee upon separation, or employee's beneficiary, upon death of the employee shall be the maximum accruals allowed for vacation in the Civil Service Commission Rules. (Amended 08/11/07 and 01/30/90)

A) Use of Vacation Accrual other than Vacation Leave. Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes, may at the request of the employee and at the discretion of the department head, be charged against vacation leave allowance.

B) Vacation Leave with Holidays. Official City holidays occurring during an employee's vacation shall not be charged as part of the employee's vacation.

C) Vacation Policy for Fire Chief and Police Chief.

1. The Fire Chief and Police Chief shall accrue vacations in accordance with the following schedule: (Amended 07/09/85, 08/20/85 and 05/16/89)

<u>YEARS OF SERVICE</u>	<u>VACATION DAYS/ MONTHLY ACCRUAL</u>	<u>VACATION HOURS/ PAY PERIOD ACCRUALS</u>
0 - 10	1 and ¼	4.62
10 - 15	1 and ½	5.54
15 - 20	1 and ¾	6.47
Over 20	2	7.39

The Police Chief shall be permitted to accumulate up to a maximum of 40 days (320 hours) vacation time. The Fire Chief shall be permitted to accumulate up to a maximum of 65 days (520 hours) of vacation and holiday time combined. If the Fire Chief has accumulated vacation time to his credit at the time of his death, resignation or retirement, he shall be paid the salary equivalent of the accrued vacation. If the Police Chief has accumulated accrued vacation time to his credit at the time of his death, resignation or retirement he shall either:

- (a) be permitted to take his accrued vacation; or
- (b) be paid in a lump sum payment or in quarterly installments up to one year the salary equivalent of the accrued vacation.

2.(a) The Police Chief shall be permitted to accumulate up to 40 days of vacation time, and any vacation leave credit in excess of 40 days shall be permanently withdrawn from his balance in the pay period in which his anniversary date of employment falls.

(b) The Fire Chief shall be permitted to accumulate 65 days of vacation and holiday time, and any vacation and holiday time credit in excess of 65 days shall be permanently withdrawn from his balance in the pay period in which his anniversary date of employment falls. The Fire Chief is expected to use some vacation during each anniversary year. Therefore, he shall be permitted to carry forward to a succeeding anniversary year unused vacation time earned the preceding anniversary year only in accordance with the following schedule:

<u>YEARS OF SERVICE</u>	<u>VACATIONS AND HOLIDAYS WHICH MAY BE ACCUMULATED</u>	<u>VACATIONS AND HOLIDAYS WHICH MUST BE TAKEN OR LOST</u>
0 - 10	13	10
10 - 15	14	12
15 - 20	17	12
Over 20	18	14

(c) The Fire Chief or the Police Chief shall not lose any accrued vacation if they are in the process of taking their vacation days during their anniversary date.

3. No vacation credit will be granted or paid, to the Fire Chief or Police Chief unless such employee has been employed for a period of time in excess of one year from the date of hire. The Fire Chief or Police Chief, or beneficiary in the event of death, shall be paid for accrued vacation leave credit upon separation from the City service at the rate of his bi-weekly salary or hourly rate at the time of termination. Payment of vacation leave credit, in

the event of death, shall be made providing either the Police Chief or Fire Chief has been employed for a period of time in excess of six calendar months from the date of hire.

4.3 SICK LEAVE WITH PAY

A) Sick Leave Accrual.

1. Employees shall be entitled to accrue sick leave with pay in accordance with the Rules of the Civil Service Commission.
2. Except as provided in the City Employee's Pension Ordinance, employees will not be entitled to any compensation for unused accrued sick leave at the time of termination, death or retirement.

B) Physician Certificates. Any physician certificates required by the City to document illness must be provided by a physician or psychologist as defined in the City's Health Plan, licensed to practice in the United States.

C) Sick Leave Policy for Fire Chief and Police Chief.

1. The Fire Chief and Police Chief shall accrue sick leave at the rate of one and one-fourth days per month per pay period from the first date of employment with the City and shall be permitted to accumulate unlimited sick leave.
2. If the Fire Chief or Police Chief has accumulated more than ten years service with the City, the Police Chief or Fire Chief, his heirs or legal representatives shall be compensated in cash for any unused accumulation of sick leave up to the maximum of 75 days at his basic hourly rate of pay, at the time of his death, resignation, or retirement. In the case of any unused accumulation of sick leave in excess of 75 days, the Police Chief or Fire Chief, shall be compensated in cash for such days of unused sick leave in excess of 75 days up to a maximum of 140 days in an amount equal to one days pay for every four days of unused, accumulated sick leave at his hourly rate of pay, at the time of his death, resignation, or retirement.
3. In the case of a Fire Chief or Police Chief who has not completed ten years service with the City, the Fire Chief or Police Chief, his heirs or legal representatives, shall be compensated in cash for any unused accumulation of sick leave up to the maximum of 75 days at his basic hourly rate of pay, at the time of his death or retirement. In the case of any unused accumulation of sick leave in excess of 75 days, an employee who has not completed ten years service, his heirs or his legal representative shall be compensated in cash for such days of unused sick leave in excess of 75 days up to a maximum of 140 days in an amount equal to one days pay for every four days of unused accumulated sick leave at his basic hourly rate of pay, at the time of his death or retirement.
4. No pension contributions shall be paid by the City on any cash payments occurring under paragraph number one above. (Amended 08/28/07)

4.4 ACCIDENT WITH PAY LEAVE. The Amended Section 4.4 of the Ordinance shall become effective upon adoption and shall apply to occupational injuries and occupational

diseases occurring on and after date of adoption. Occupational injuries and occupational diseases occurring before such date, will be governed by the Ordinance in effect at the time of the date of injury or disease. (Passed 08/27/96, Amended 08/28/07)

A) Accident With Pay Leave (AWP) is separate and distinct from and in addition to the weekly workers' compensation payment. While on AWP leave, absence from the job as a result of an occupational injury or illness is not deducted from the employee's accrued sick or annual leave balances.

B) Eligible Employees. A regular full-time employee, including one on probation, who sustains an injury or suffers an occupational disease or illness arising out of and in the course of employment as defined by the Texas Worker's Compensation Act is eligible to request Accident With Pay (AWP) leave, beginning the eighth day of occupational disability. Temporary employees, part-time employees, contract employees, independent contractors, and volunteers are not eligible for AWP leave.

C) Procedure.

1. To be granted AWP leave the employee must submit through his applicable Department Head a properly completed AWP Leave Request Form as prescribed by the Director of Personnel and accompanied by a medical report from the treating physician indicating that any lost time is due to the employee's on-the-job injury or occupational disease. Medical documentation must correspond in time with the number of days or hours of AWP leave requested. (Amended 02/24/09)

2. The Human Resources Director, upon recommendation of the applicable Department Head or upon independent finding, may grant AWP leave for a period of time not to exceed thirty working days. (Amended 08/28/07)

3. An employee denied AWP leave may appeal to the Human Resources Director within five (5) calendar days of notification that AWP leave has been denied. The Human Resources Director will respond to appeal within ten (10) calendar days of receipt. Should the employee not be satisfied with the decision of the Human Resources Director, the employee shall within ten (10) calendar days of notification from the Human Resources Director, notify the Human Resources Director that the employee wishes to appeal the decision to a Hearing Officer of the Civil Service Commission. Upon receipt of such notification, the Human Resources Director will assign the appeal to a Hearing Officer. The Hearing Officer shall hear and decide such appeal within twenty (20) calendar days of assignment. The final decision regarding the granting or denial of AWP leave rests with the Hearing Officer whose decision shall be final and binding on both parties, and shall not be appealable to either City Council or the Civil Service Commission. (Amended 08/28/07)

D) Grounds for denial and termination. Upon recommendation of the applicable Department Head or upon independent finding, the Director of Personnel will deny or terminate AWP leave to any injured employee who:

1. Fails to report the occupational injury or disease within 24 hours of its occurrence to his immediate supervisor. For purposes of this ordinance, the date of occurrence of an occupational disease is the date on which the employee knew or should have known that the disease may be job-related. (Amended 02/24/09)

2. Is injured as a result of:

- a. the employee breaking of rules, regulations, or laws, including any safety rules adopted by the City for the prevention of accidents and injuries;
- b. the gross negligence of the employee; or
- c. any other unreasonable or culpable conduct of the employee as determined by the City's Human Resources Director; (Amended 08/28/07)

3. Fails to use department-mandated safety equipment or follow department-mandated safety procedures when the injury was sustained;

4. Refuses to submit to any independent medical examination or treatment required by the City in accordance with Texas Workers' Compensation laws;

5. Refuses to return to regular or restricted duty after being released for regular or restricted duty by a treating physician or other physician performing an independent medical examination for the City;

6. Fails to act in a manner that is conducive to or consistent with being off work convalescing from a job-related injury;

7. Submits a workers' compensation claim which is controverted;

8. Submits an AWP leave request previously denied based upon the merits of this ordinance for the same injury; or,

9. Fails to follow the procedural process as contained in this ordinance.

Denial of AWP status will not affect an employee's eligibility, if any, to receive workers' compensation benefits.

E) Suspension or Termination of AWP Leave.

1. Eligibility for AWP leave will terminate upon any of the following occurrences:

- a. One year from the date of injury or occupational disease, except for an extension requested and granted under Paragraph F of this ordinance;
- b. Expiration of thirty days utilized AWP leave in a rolling twelve-month period regardless of the number of injuries within such twelve-month period;
- c. When the workers' compensation claim is controverted or disputed under the Texas Workers' Compensation law; or,
- d. Upon a finding by the Human Resources Director of any of the occurrences defined under Paragraph D of this ordinance. (Amended 08/28/07)

2. Eligibility for AWP leave will be suspended upon any of the following occurrences:

- a. The employee's treating physician releases the employee to return to work;
- b. A physician performing an independent medical examination for the City releases the employee to return to work;
- c. The employee's failure to provide timely physician certificates;

d. The employee does not submit a properly completed AWP leave request to his department within two (2) working days prior to payroll closing, unless the employee can show good cause for the delay; or, (Amended 02/24/09)

e. The employee fails to follow the procedural process as contained in this ordinance.

If AWP leave is suspended under subsections c, d, or e of this Paragraph and is reinstated upon compliance by the employee, such reinstatement of benefits will not be retroactive unless the employee can show good cause for the delay in compliance.

F) Eligibility For AWP Leave Beyond the One Year Anniversary Date of Injury. In those cases where an employee submits a written request to his department head for AWP leave beyond the one year anniversary date of injury and that employee has either not used AWP leave or has not utilized the maximum amount of AWP leave during the one year period allowed or had used it intermittently and not for the allowed maximum amount, the employee may be granted AWP leave, provided that the following conditions are met: (Amended 02/24/09)

1. The employee is and had been receiving continuous treatment by a licensed physician for the same on-the-job injury or occupational disease for which AWP leave was originally granted ("Continuous treatment" is defined as regular examinations or treatments by a licensed treating physician or a licensed physician to whom the treating physician has referred the employee); and

2. A licensed treating physician or a licensed physician to whom the treating physician has referred the employee recommends surgery, because all other treatments have not been successful; and

3. The employee obtains the written recommendation of the department head; and

4. The employee has not exhausted or utilized thirty days of AWP leave during the immediate rolling twelve month period for any occupational injury or disease; and

5. The employee has complied with the requirements of Paragraph C of this subsection. If the above requirements are met, AWP leave may be granted after the one year anniversary of date of injury addressed in Paragraph D for the time period necessary for surgery and recovery there from, as designated by a licensed physician, until the maximum thirty days allotment of AWP leave is used. In no event does this provision allow over thirty days utilization of AWP leave in a rolling twelve month period. (Amended 02/24/09)

G) AWP Supplement to Worker's Compensation Weekly Benefit. In addition to the weekly workers' compensation benefits payable under law, the eligible employee granted AWP leave may receive a supplement to such workers' compensation benefit equivalent to the difference between any workers' compensation weekly benefit and the employee's pre-injury take-home pay. If the weekly workers' compensation benefit equals or exceeds the take-home pay, there shall be no AWP supplement, but the absence from work will not be deducted from the employee's accrued leave balances. For purposes of this ordinance:

1. Take-home pay means base pay, longevity pay, special merit pay, incentive and certification pay, uniform and clothing allowance, less mandatory deductions.

2. Mandatory deductions means income tax withholdings, FICA and Medicare, if applicable. (Amended 02/24/09)
3. Payroll deductions (FICA, Medicare and FWT) will NOT be taken out of the weekly workers' compensation benefits, but WILL be taken out of the supplement portion.
4. Section 125 benefit payments will be taken out of the supplement portion, if available.

H) Maximum Duration of AWP leave. AWP leave may be granted for a period not to exceed thirty working days in a rolling twelve month period.

I) Temporary and Intermittent Absence from Employment. AWP leave may also be granted for an employee's temporary and intermittent absence from his employment due to seeking and receiving treatment for his injury (doctor's and therapy appointments) provided that the employee submits the required medical documentation. AWP leave is not available for an employee's temporary and intermittent absence from his employment without medical documentation. An extension of AWP leave beyond the one year anniversary of the date of injury or illness is not allowed for an employee's temporary and intermittent absence from employment due to seeking and receiving treatment. (Amended 02/24/09)

J) Initial Seven Days of Disability. AWP leave is not available for the initial seven (7) days of disability not initially paid by workers' compensation benefits. An employee may elect to utilize his accrued sick or annual leave during the initial seven days of disability. (Amended 02/24/09)

K) Supplementation of Weekly Workers' Compensation When AWP Leave is Not Available. In the event AWP leave is not available, but the employee is receiving weekly workers' compensation benefits, pursuant to §504.052 of the Texas Labor Code, the employee may supplement his weekly workers' compensation benefits with accrued sick leave, annual leave and special sick leave, but the employee will not accrue additional leave during this period. In no event, will the amount of this optional supplement to the weekly workers' compensation benefit and the weekly workers' compensation benefit cause the employee to receive in excess of his pre-injury take-home pay. Only the utilized pro-rata amount of this optional supplement will be deducted from the employee's accrued leave balances. Payroll deductions for FICA, Medicare, and FWT will be deducted from this optional supplement portion. The employee must request this optional supplement through his applicable department. (Amended 02/24/09)

L) Leave Balances. While on AWP leave, absence from the job is not deducted from the employee's sick or annual leave balances nor does the employee continue to accrue sick and annual leave.

M) Pension Fund Contributions. Any pension fund contributions shall be made by the employee and employer in accordance with the employee's applicable pension plan, if any. In the event, the employee's weekly workers' compensation benefit is greater than his pre-injury take-home pay and thus not receiving an AWP supplement to his weekly workers' compensation benefit or the AWP supplement is insufficient to cover the employee's pension contribution, the employee will need to pay his pension deduction if he wants service credit. (Amended 02/24/09)

N) Overpayment of Workers' Compensation Benefits or Supplement Payments. In the event the employee receives overpayment of workers' compensation benefits or AWP supplement payments, the employee shall cooperate with the Personnel Department to correct and repay any payment errors in a manner prescribed by the Director of Personnel. Such repayment includes assignment and repayment from the employee's future wages or by reduction of any accrued leave balances.

4.5 PREGNANCY LEAVE

- A) Pregnancy shall be treated the same as any other temporary physical disability.
- B) An employee on pregnancy leave shall use accumulated and unused regular sick leave time and then (unless granted use of special sick leave) shall be on leave without pay, unless the employee chooses to use any accumulated and unused annual leave.
- C) An employee going on pregnancy leave shall give written notice to her department head with appropriate medical verification. Before returning to work from pregnancy leave, the individual will provide appropriate medical documentation releasing the employee to return to work, as is required for any individual who has been on leave for a temporary physical disability.

4.6 OBSERVED~~LEGAL~~ HOLIDAYS

The following days are hereby declared ~~legal~~ holidays ~~for~~observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire Department ~~whose duties are to prevent or extinguish fires,~~ or to members of the Police Department, who are covered by collective bargaining agreements with the City. ~~whose duties are those of law enforcement:~~ (Amended 10/03/95)

1. First day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Holiday)
3. Last Monday in May (Memorial Day)
4. Fourth day of July (Independence Day)
5. First Monday in September (Labor Day)
6. Fourth Thursday in November (Thanksgiving Day)
7. The Friday following the fourth Thursday in November (Day after Thanksgiving)
(Amended 02/24/09, 06/25/09, 8/25/09)
8. Twenty-fifth Day in December (Christmas Day)
9. Employee's Birthday

When any ~~legal~~ holiday falls on a Saturday, the preceding ~~Friday~~business day shall be considered a the day on which the~~legal~~ holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.

When any legal holiday falls on a Sunday, the following business day shall be the day on which the considered a legal holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.;

Provided however, wWhen the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding Fridaybusiness day or the following business day shall be the day on which considered the holiday shall be observed by the City departments, as determined by the City Manager., who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.

In addition to the above days, the following days are also declared to be legal holidays observed by the City departments:

1. Any day designated as a holiday by City Council.

~~2. When any legal holiday falls on a Saturday, the preceding Friday shall be considered a legal holiday observed by the City departments.~~

~~3. When any legal holiday falls on a Sunday, the following business day shall be considered a legal holiday observed by the City departments.~~

~~4. When the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding Friday or the following business day shall be considered the holiday observed by the City departments, as determined by the City Manager.~~

A) Police and Fire. Members of the Police and Fire Departments who are required to work on regular holidays shall be given equal time off in lieu of a holiday at the discretion of their department head. If such time off in lieu of a holiday cannot be conveniently taken at any other time, it may be taken with the regular vacation period. (Amended 08/11/87 and 10/03/95)

B) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays, provided that employees in any department regularly operating seven days per week may be required to work on any legal holiday. (Amended 02/24/09)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay employee the holiday, plus the actual numbers of hours worked at straight time. If employee works more than eight hours on a holiday, see Section 5.3 for method of overtime payment. In either case, the department head shall keep a record and report on such overtime work on holidays on the regular payrolls and on such reports as may be prescribed by the Human Resources Director. (Amended 08/28/07 and 02/24/09)

C) Holiday On Scheduled Day Off. Whenever a holiday falls on the employee's scheduled day off, the department head may do either of the following:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)
2. Pay the employee the holiday. (Amended 02/24/09)

D) Holiday Accrual. If an employee is allowed to accrue the holiday, the number of hours credited for 40 hour per week employees will be eight (8) hours, and for 56 hour per week employees will be twelve (12) hours. The maximum accrual for holiday leave time shall not exceed the number of declared legal holidays excluding the birthday holiday. (Amended 10/03/95)

E) Limitation of Payment or Accrual. An employee whose scheduled workday falls on an observed holiday is limited to one payment or accrual for that observed holiday.

FE) Employee's Birthday. In case of emergency, when the employee's services are needed on his birthday, the employee may be required by the department head to work on that day or shift but shall be given equal time off on another day or shift. If the employee's birthday falls on a day on which he would be entitled to be off for some other reason, the birthday holiday may be taken on the next regular work day, provided, however, if work schedules cannot be arranged or if emergencies exist, and only in these cases, the department head may schedule the holiday time off on another day or another shift. (Amended 02/24/09)

Any birthday holiday not taken on the employee's birthday but rescheduled in accordance with the above provisions must be scheduled and taken within fourteen calendar days before or fourteen calendar days after the employee's birthday. (Amended 08/28/07, 02/24/09)

GF) Hours of Holiday Pay. The amount of holiday pay for employees who work 40 hours per week shall be 8 hours per holiday. The amount of holiday pay for employees who work 56 hours per week shall be 12 hours per holiday. Regular part-time employees who work an average of 20 or more hours per week shall be paid holiday pay of a prorated amount of hours based on the average number of paid hours, excluding overtime, in the two pay periods immediately preceding the holiday pay period. (Amended 05/08/90)

4.7 CIVIL LEAVE

The head of any department shall grant an employee leave with full pay for any absence necessary for serving on a jury, attending court as a witness when subpoenaed, or registering for and taking tests of fitness for promotion in the City service. A department head may grant leave with full pay to an employee for voting in an election.

Civil leave shall be only for the actual hours needed.

4.8 MILITARY LEAVE

Military leave for City employees is provided in accordance with V.T.C.A., Government Code, Section 431.005 (a) and (b). (Amended 10/023/95 and 08/28/07)

4.9 LEAVE WITHOUT PAY

Leave without pay may be granted employees as provided in the rules of the Civil Service Commission. Any leave without pay exceeding 30 calendar days or more will result in the employee's anniversary date being changed by adding the exact number of days of leave to the existing anniversary date. (Amended 07/09/85 and 02/01/94)

4.10 DISPOSITION OF LEAVE ALLOWANCE ON EMPLOYMENT CHANGE

Any employee who leaves the City service by retirement, resignation, layoff or termination shall be entitled to payment of the unused balance of annual vacation leave allowance. The employee's retirement, resignation, layoff or termination notice shall list the actual date of separation and shall note the adjustment to be made for unused vacation balances due and the adjustment shall provide compensation for the number of days (hours) equivalent to the number due. All other unused balances of leave allowances under this ordinance shall terminate on the date of retirement or separation of any employee from City service. Any employee transferred, demoted, or promoted shall retain all unused balances of vacation and sick leave as though no change in position had been made. (Amended 07/09/85)

4.11 RECORDS ON GRANTS OF LEAVE OF ABSENCE

The department head shall keep a record of all leaves of absence both accrued and granted for each employee and shall report them to the Personnel Department on a form prescribed by the Director of Personnel.

All grants of leave with pay shall be designated on the payrolls in such manner as the Personnel Department shall prescribe. If leave time exceeds the amount an employee has accrued, the unauthorized leave time will not be paid, or charged to other accrued leave time. (Amended 01/30/09 and 08/28/07)

4.12 PARENTAL LEAVE

A) An employee going on parental leave for the purpose of caring for the employee's expected new-born child shall, at the earliest possible time, give written notice to the employee's department head and the Human Resources Director of employee's intent to go on parental leave and shall include with such notice the attending physician's confirmation of pregnancy, the most current estimate of the delivery date, satisfactory proof that there is no other person available to care for the expected new-born child, and, if requested by the department head or Human Resources Director, proof of the existence of a legal parent-child relationship between such employee and the expected new-born child. (Amended 08/28/07)

B) An employee going on parental leave to care for a newly adopted minor child shall, at the earliest time possible, give written notice to the employee's department head and the Human Resources Director of the employee's intent to go on leave for such purpose, and shall include with such notice satisfactory proof that there is no other person available to care for the expected new-born child, a certified copy of the adoptive placement agreement between

the employee and the Texas Department of Human Services or an adoption agency authorized within the meaning of the Texas Family Code, or other applicable law, or, in the alternative, a certified, file-marked petition for adoption filed in compliance with the Texas Family Code, or other applicable law. Such written notice also shall include the date upon which the employee will take legal possession of the child under authority of either an adoptive placement agreement or an adoption decree, and any other necessary or appropriate information requested by the department head or the Human Resources Director. (Amended 08/28/07)

C) An employee on parental leave shall use accumulated and unused regular sick leave time and then shall be on leave without pay, unless the employee chooses to use any accumulated and unused annual leave. (Passed 12/09/86 and Amended 06/04/91)

D) All employees may take parental leave in accordance with the Family and Medical Leave Act of 1993, as may be amended and no other provision of this Ordinance shall be construed to conflict with such Act. (Amended 08/28/07)